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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,464	02/11/2004	Samuel Morgan Peters	2657U.000001	2237
21917	7590	06/03/2005	EXAMINER	
MCHALE & SLAVIN, P.A. 2855 PGA BLVD PALM BEACH GARDENS, FL 33410			STERLING, AMY JO	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/777,464	PETERS ET AL.	
	Examiner	Art Unit	
	Amy J. Sterling	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-11 and 15-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-18 is/are allowed.
- 6) ☒ Claim(s) 5-11 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the **Final Office Action** for application number 10/777,464 Reinforced Rod Holder filed on 2/11/04. Claims 1-3, 5-11, 15-18 are pending. This **Final Office Action** is in response to applicant's reply dated 3/21/05. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

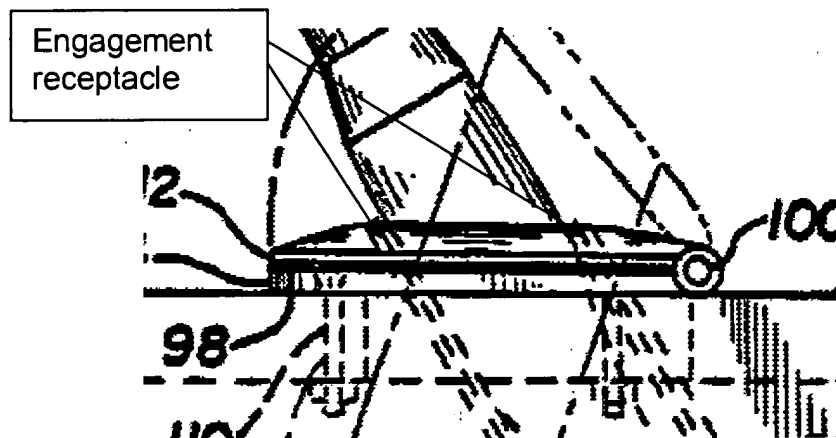
Claims 1-3, 5, and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 5163244 to Rupp and in view of United States Patent No. 5065540 to Potter, Jr.

Rupp discloses applicant's basic inventive concept, including a rod holder (2) assembly with concealed fasteners (32) having an upper flange (4) having a top surface and a lower surface with a centrally disposed tubular shaped opening therethrough, the top surface of the upper flange having a continuous and uninterrupted perimeter edge spaced apart from the opening, a backing plate (16) (element 40 being shaped as a plate) having a centrally disposed opening, a receiving socket (20) having a tubular shaped open upper end, the socket being coupled to the backing plate and formed integral with the mounting flange and the backing plate, the receiving socket having an elongated lower end depending therefrom with a continuous sidewall between the upper end and the lower end, the sidewall having an inner surface dimensioned to

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approximate the opening of the top flange. Rupp also teaches a means for securing (12, 6) the backing plate to the upper flange wherein the upper flange is positioned on top of a boat gunnel mounting surface (30) and the backing plate is positioned beneath the mounting surface (30) and fastened to the upper flange (4). Rupp also teaches a stop member (18) positioned in the lower end of the receiving socket. Rupp does not teach a liner extending from the upper flange and extending into the receiving socket and the upper flange had an engagement receptacle to frictionally engage an edge of the liner.

Potter, Jr. teaches a rod holder (10) which has an upper flange (12, 14) and a receiving socket (30) which teaches a liner (35) which extends from the upper flange into the receiving socket, used to cushion the fishing rod handle during use, to prevent damage to the handle of the rod. Potter also teaches that the upper flange has an engagement receptacle (See Drawing Below), used for frictionally engaging the outer edge of the liner within the flange. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Potter, Jr. to have added a liner in order to prevent damage to the fishing rod, during use, and to have added an engagement receptacle in the upper flange in order to frictionally engage the outer edge of liner to the device.



Claims 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 5163244 to Rupp and in view of United States Patent No. 5065540 to Potter, Jr. as applied to claims 1 and 5 above and further in view of United States Patent No. 3964706 to Adams.

Rupp and Potter, Jr. teach the basic inventive concept as shown above with the exception that they do not specifically show that the stop member is rotatable.

Adams teaches a rod holder, having a receiving socket (44') with a rotatable stop member (74, 78, 80, See Fig. 12), the stop member being inherently rotatable in that it can be easily removed from the holder (44', See Col. 6, lines 23-30), thereby the stop member is not adhered to the surface of the device in order to make it immovable, the rotation of the pin being used so that the leaning direction of the rod may easily changed from one side of the receiving socket to the other, in order to fish on the opposite side of the boat, without removing the rod from the rod holder. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention

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was made from the teachings of Adams to make the stop member rotatable in order to easily change the position of the rod, without removing the rod from the device.

Claims 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 5163244 to Rupp and in view of United States Patent No. 5065540 to Potter, Jr. as applied to claim 1 above and further in view of United States Patent No. 4551939 to Kitchens.

Rupp and Potter, Jr. teach the basic inventive concept as shown above with the exception that they do not specifically show that the upper flange is highly polished.

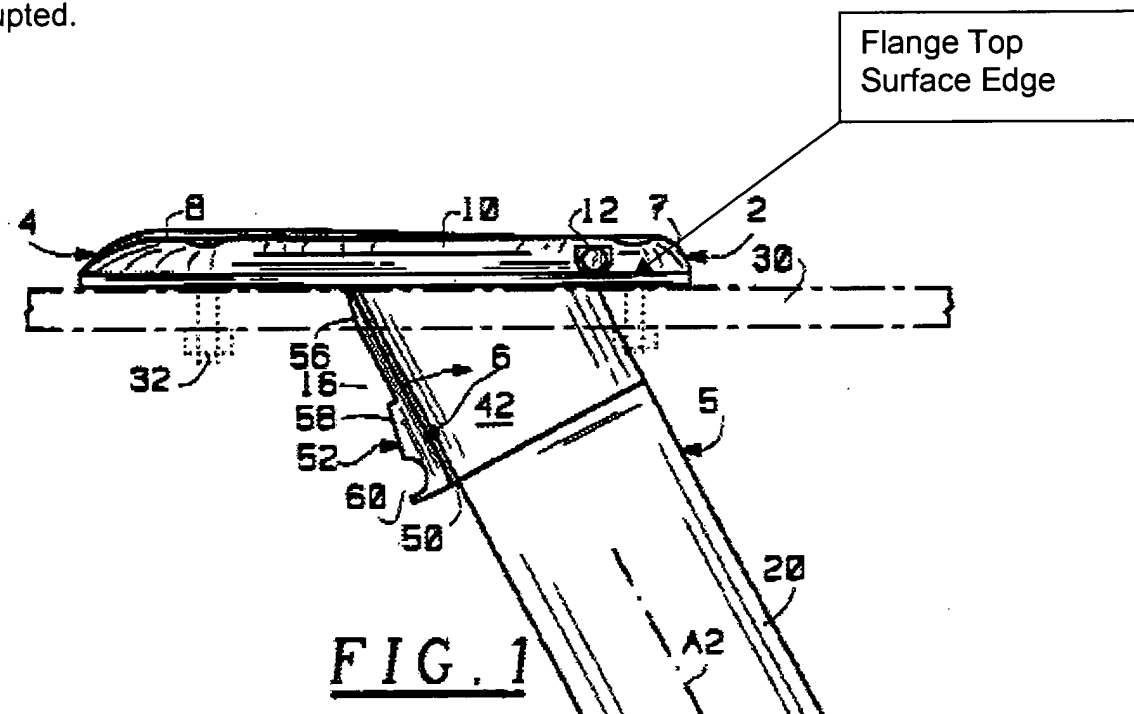
Kitchens teaches a rod holder (19) which is made of polished aluminum (See Col. 3. line 30 for material selection), the polishing used for its aesthetic appeal. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Kitchens to have selected a polished material, in order to have an aesthetically pleasing device.

Response to Arguments

The applicant has argued that an installation that relies on bolts and screws is much weaker and unable to handle the higher loads found with fishing larger fish. The applicant further argues that the upper plates of both the cited prior art contains screws on the upper surface of the flange. This is unpersuasive in that the applicant is arguing limitations which are not in the claims. The claimed limitation states that a "top surface

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of the upper flange has a continuous and uninterrupted perimeter edge" and it is clear from the rejection above and from the Fig. 1 (See markings below) that the upper surface edge, which is located at a side and adjacent the boat (30) is continuous and uninterrupted.



Allowable Subject Matter

Claims 15-18 are allowed.

With regards to claim 15, the prior art does not teach at least one fastener boss receptive to a fastener bolt inserted through a slotted aperture in the backing plate. Although the term "receptive to a fastener bolt" was considered as a functional statement only and not a positive limitation, the Rupp and Potter, Jr. references as combined are not capable of accepting a fastener through an aperture in the backing

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plate, the acceptance of the bolt into the boss, which would fixedly attach the backing plate and the upper flange to each other in a manner that would not allow the elements to rotate relative to each other. Modifying the device as such would destroy the intended purpose of the device.

With regards to claim 18, removing a fastener to remove the upper flange without disturbing the receiving socket is not possible since the receiving socket, which is attached to the backing plate, is suspended by the upper flange, so the removal of the upper flange will inherently disturb the receiving socket.

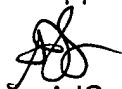
Conclusion

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action. Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 571-272-

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6823. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 571-272-6815. The fax machine number for the Technology center is 703-872-9306 (formal amendments) or 571-273-6823 (informal amendments and communications). Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 571-272-3600.



AJS

Amy J. Sterling

5/21/05



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PRIMARY EXAMINER